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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/519,605	03/06/2000	Peter C P Sun	WC99-001	8201

7590 01/22/2004
WALKER & SAKO,LLP
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SAN JOSE, CA 95113

EXAMINER

ODLAND, DAVID E

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/519,605

Applicant(s)

SUN, PETER C P

Examiner

David Odland

Art Unit

2662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see continuation sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-10.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: see continuation sheet


JOHN PEZZLO
PRIMARY EXAMINER

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Continuation of Part 2A: Continuation of 2a: The applicant has amended claims 1 and 6 to recite that the telephone network is 'primarily intended for telephony' and that the call detection is done 'by control of the first VDM', respectively. However, these claims will not be entered because they raise new issues and would require new considerations and/or an updated search of the prior art. Furthermore, a brief review of the claim 1 amendment and the prior art of record show that the primary reference Baratz still anticipated the claimed invention. Specifically, the amended limitation recited that the telephone network is primarily intended for telephony. The term 'telephony', as described in *Newton's Telecom Dictionary 12th Edition* (see Appendix A for attached copy), defines 'telephony', *inter alia*, as merely transmitting a voice, video and data over far distances through the use of telephones and/or computers. Since Baratz teaches of such a system (see figure 1), Baratz still anticipates the proposed amendment to claim 1.

Continuation of part 10: The Applicant has amended claims 3 and 7 to overcome the 35 USC 112 first paragraph rejections. However, the recited amendments are still not adequately described in the specification. Specifically, the specification does not adequately describe the definition of 'Ethernet tokens'. The Specification merely describes that the Ethernet Tokens are used in a 'Token over Ethernet Protocol' (TEP). However, no such protocol is adequately described in the specification or is known in the art. Tokens are known in the art to be used primarily in ring or loop type networks wherein when each node of the ring receives the Token, it is given permission to communicate over the network and when such communication is finished it passes the Token to the next node in the ring. This method is used to prevent packet collisions and contention among nodes for use of the communications links of the network.

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Ethernet, as is known in the art, operates in the opposite fashion. Namely, in Ethernet networks, nodes can transmit packets onto the network communication links at-will. Such networks experience packet collisions and node contention and to compensate for this the networks employ Carrier Sense Multiple Access with Collision Detection (CSMA/CD). Since Ethernet and Token passing protocols are intrinsically different from one another, one of ordinary skill in the art would not be able to recognize how TEP could be implemented nor does the specification adequately disclose such a protocol.